S.B.Cr.Misc. Second Bail App. No.835/2007

(Nawab Sya vs. State of Rajasthan)

Date of order : February 26, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.Ravindra Acharya, for the petitioner.
Mr.Rameshwar Dave, Public Prosecutor.

This is second bail application.

Heard learned counsel for the parties.

While dismissing the earlier bail application vide order dt. 30.3.2005, the petitioner was granted liberty to file a fresh bail application after the statement of Gopi Chand is recorded by the trial court. Learned counsel for the petitioner submits that the statement of Gopi Chand has been recorded by the trial court, he has been examined as PW.10.

I have carefully gone through the statement of PW.10 Gopi Chand. In examination-in-chief, he has stated that he sold the vehicle to the petitioner but subsequently he has deviated in cross-examination and stated that a power of attorney has been executed in favour of Ram Pal s/o Lumba Ram and it was he, who has been managing and looking after the vehicle including engaging the driver on the said vehicle and one Ibrahim was kept as a driver on the said vehicle as also the present petitioner.

It is contended by the learned counsel for the petitioner that the vehicle in question was found abandoned with containing contraband poppy straw and at the time of recovery, the petitioner was not present in the vehicle in question or around it. Except the statement of Gopi Chand, there is no evidence, according to the learned counsel for the petitioner, connecting the petitioner with the commission of crime. Be that as it may.

Having considered the totality of facts and circumstances of the case and the contradictory statement of PW.10 Gopi Chand taking into account the oral arguments advanced by both the parties, I consider it just and proper to enlarge the accused petitioner on bail.

Accordingly, this bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Nawab Sya s/o Sultan Sya be released on bail in FIR No.211/2004, P.S. Merta City, Distt. Nagaur provided he furnishes a personal bond in a sum of Rs.20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR),J.

m.asif/-